

MEMORANDUM OF UNDERSTANDING

ToSIA Management and User Group (“TMUG”)

1. BACKGROUND

BACKGROUND TO EFORWOOD

The EFORWOOD project, EU FP6 Contract no. 518128-2, (“EFORWOOD”) ended on January 31, 2010. EFORWOOD has dealt with methods for Sustainability Impact Assessment (SIA) of the forest-based sector and has for this purpose advanced the concept of SIA considerably and developed the deliverables listed below.

EFORWOOD produced the following end results (“the Deliverables”):

1. ToSIA Indicator Framework set-up (characterisation and definition of indicators) and ToSIA Data Collection Protocols
2. ToSIA Engine, including the Database
3. ToSIA Evaluation Modules (Cost Benefit Analysis, Multi-Criteria Analysis and Policy Analysis)
4. EFORWOOD Portal (website)
5. ToSIA Data (European, Scandinavian, Baden-Württemberg and Iberian)

Apart from the Deliverables, Partial models were also created as a bi-product. Partial models are the property of the EFORWOOD Contractor or Contractors carrying out the work leading to that partial model. The Partial models are therefore not part of the agreement under TMUG.

Further, a Database Client was developed by the Institute of Forest Ecosystem Research (IFER) and provided as an executable software, with a commercial software, to act as an interface between the data providers and the database.

The ToSIA Indicator Framework set-up (Deliverable 1.) is hereafter referred to as *the ToSIA Indicators*. The ToSIA Indicators are however part of the EFORWOOD heritage and are not maintained through TMUG.

The ToSIA Engine and the ToSIA Evaluation Modules (Deliverable 2. and 3.) are hereafter referred to as *the ToSIA Model*.

The EFORWOOD Portal (Deliverable 4.) is hereafter referred to as *the Portal*. The Portal is however part of the EFORWOOD heritage and is not maintained through TMUG.

All Data created in the Project for testing and applying the ToSIA model (Deliverable 5.) has been screened and cleared of all sensitive individual data by the EFORWOOD Contractors and will not be changed any more. The screened and cleared ToSIA Data shall be stored at the European Forest Institute (EFI) and is hereafter referred to as *the ToSIA Data*. It will serve as a default dataset/backdrop for running ToSIA.

BACKGROUND TO THIS MEMORANDUM OF UNDERSTANDING

The rights and obligations of the EFORWOOD Contractors are defined in the Contract between the European Commission and the EFORWOOD Contractors , including a subsequent Amendment, (“the Contract”) and in the Consortium Agreement between the EFORWOOD Contractors (“the CA”). These documents together stipulate, among other things, under which conditions access rights to knowledge from the Project can be made available to parties outside EFORWOOD.

In accordance with Article II.32.2. of the Contract, the EFORWOOD Contractors have in the CA agreed that they are each entitled to use the ToSIA Model and ToSIA Data at the end of EFORWOOD, provided that no other agreement has been concluded between them.

In accordance with Article 7.10.1. of the CA, the EFORWOOD Contractors have agreed that the ToSIA Indicators shall be publicly available at the Portal and that the ToSIA Model shall be made publicly available after the end of the Project.

Following the CA article 7.10.4., the EFORWOOD Contractors have agreed that the Partner InnovaWood is responsible for managing the Portal for one year after the Project ended. After that, the TMUG Assembly shall assign a manager of the Portal, if maintained.

All EFORWOOD Contractors have been invited to sign this Memorandum of Understanding (“MoU”).

2. PURPOSE OF TMUG

In order to facilitate further cooperation and development of post-Project developments of the ToSIA Model it has been decided to establish TMUG as an informal “controlled” network.

TMUG does not constitute a legal entity.

The main purposes of TMUG are to:

- maintain and promote the further development of the ToSIA Model
- facilitate the information flow between the Members
- define the means and conditions by which organisations can have access to the ToSIA Model
- keep record as far as possible of development work regarding the Deliverables
- keep record as far as possible of development of the applications of the Deliverables

3. MEMBERS

3.1. Membership

A Member is any party having signed or joined this MoU.

Membership is open to organisations with an interest in the Deliverables. Membership is not open to individuals.

Organisations may sign this MoU until one day prior to the next TMUG Assembly, to be able to vote on the next TMUG Assembly.

Organisations may at any time apply for Membership in TMUG. Application for membership in TMUG should be addressed to the TMUG Coordinator, which takes the agreed steps of a simplified and standardized approach leading to decision on membership.

Simplified standardized approach of accepting new TMUG members in detail:

Step 1: TMUG Coordinator critically scrutinizes new member applicants. (Pass/Fail criteria)

Step 2: Coordinator sends introduction of new member applicant to all TMUG members, including:

Short screening of applicant: who they are and the purpose of their joining of TMUG

Introduction and critical recommendation by Coordinator.

Step 3: within a given timeframe set by the Coordinator, TMUG members can vote on the acceptance or denial of the new member applicant. 2/3 of the received email votes decide on acceptance of new TMUG member.

Step 4: the Coordinator informs about and finalises the acceptance of the new member.

Membership shall normally not be refused, provided the applicant is ready to fulfil the obligations that follow from this MoU.

An organisation which applies for membership in TMUG may be subject to a special entrance fee or other special conditions as decided by the TMUG Assembly. Such an entrance fee or special conditions may especially be decided in cases where substantial developments of the Deliverables have taken place.

Organisations granted membership by the TMUG Assembly may join the MoU, subject to any special conditions and entrance fee, through a written statement.

Membership shall not be construed as taking any responsibility whatsoever for any use of Deliverables whole or in part or developments thereof. The Members will, however, make best efforts to secure the quality of such developments.

3.2. Rights and Obligations of Members

All Members have a right to use, modify and improve the ToSIA Model as well as any modifications or improvements of the ToSIA Model done by another Member. Any further modifications or improvements of the ToSIA Model done by a Member shall be sent to the TMUG Coordinator to be added to the TMUG framework. The TMUG Assembly shall decide which improvements will be part of a new release of the ToSIA model.

Members are encouraged to develop also the ToSIA Indicators and the ToSIA Data, and to share these within TMUG. Members shall for that purpose inform the other Members, through the

TMUG Coordinator, about activities, including developments and applications, related to these Deliverables. If possible, Members should have a first option to act as partners in such activities.

As is the common practice in science, the user of any version of a ToSIA dataset in a ToSIA application shall inform the owner of the data about the intention for publication.

The TMUG Members shall pay an annual membership fee, which shall be the same for all Members. Membership fees shall be paid for full calendar years regardless of the time of granting of membership or subsequent joining of the organisation to TMUG.

The annual membership fee will be decided by the TMUG Assembly. The current annual fee is set at € 300.

The annual fee shall cover administrative expenses for basic functions of TMUG Coordination (e.g. invitations, arranging meetings, coordination, administration, handling of Membership requests, agreements, keeping of records, storage of Deliverables and TMUG developments). The annual membership fee shall be paid every year to the TMUG Coordinating Organisation 31 January the latest.

Unless otherwise agreed Members shall cover their own costs generated by TMUG activities and shall share information channelled through TMUG at no extra cost besides the annual membership fee. Should a Member wish assistance from another Member when further developing a Deliverable, the assisting Member has the right to be reimbursed.

4. THIRD PARTY USE

The ToSIA Model, including a basic default data set, as it stands at the release by EFORWOOD shall be made publicly available for use free of charge in order to allow for third parties to evaluate functionality of the ToSIA Model.

The source code of the ToSIA Model shall not be made publicly available and third parties shall not be granted the right to modify the ToSIA Model.

The TMUG Assembly may decide on other versions of the ToSIA Model to be publicly available to Third Parties.

In order to keep the use of the ToSIA Model under control, third parties wanting to use the ToSIA Model shall have to agree to a non-exclusive and royalty-free license.

5. INTELLECTUAL PROPERTY RIGHTS

All further versions of the ToSIA Model developed by any Member shall be jointly owned by all Members.

It is understood and agreed that the ToSIA Model has been generated and developed with a help of public funding to the benefit of the academic community and the experts of forestry sector as a whole. TMUG has been established with the intention to secure the non-commercial and public nature of the current and future ToSIA Deliverables. Therefore the Members undertake, during and after their Membership, not to commercialise the ToSIA Model during the validity of this MoU without a prior consent of the TMUG Assembly.

The trademark "ToSIA" shall be jointly owned by the Members.

Upon signing this MoU the Institute of Forest Ecosystem Research (IFER) grants all present and future Members unlimited user rights to the Database Client. These user rights will be in force even if IFER later withdraws from TMUG. The Database Client will however not be provided as open source.

6. TMUG ASSEMBLY

The Members shall assemble, in physical meeting or otherwise, at least once a year. The first TMUG Assembly took place on 22 February 2011 in the Helsinki region, Finland.

The main purpose of the TMUG Assembly is to provide a general forum for information and discussion regarding the ToSIA Indicators, the ToSIA Model and the ToSIA Data.

The TMUG Assembly shall in addition to this:

1. Define the conditions for third party access to developments of the Deliverables
2. Decide on new releases of the ToSIA Model

3. Grant memberships and decide on entrance fee and special conditions. The TMUG Assembly may for this purpose decide on simplified routines for acceptance of granting Memberships.
4. Decide annual membership fees
5. Decide on exclusion from TMUG
6. Decide on changes to this MoU
7. Appoint the TMUG Coordinating Organisation and decide its Terms of Reference
8. Decide on any other matter relating to TMUG

If 1/3 of the Members request in writing to the TMUG Coordinator that a TMUG Assembly shall convene, such a meeting shall be organised by the TMUG Coordinator within 30 days.

For each meeting the TMUG Assembly shall elect a chairman and a secretary. The minutes shall be prepared by the secretary and adjusted by the chairman, who shall send the adjusted minutes for the Members' information and comments latest two weeks after the meeting was held.

In the TMUG Assembly each Member has one vote. However, at the first TMUG Assembly only Members that also have been EFORWOOD Contractors may vote.

All decisions are taken with a 2/3 majority of the Members present.

A Member that can show that its own work, time for performance, costs, liabilities, intellectual property rights or other legitimate interests would be severely affected by a decision of the TMUG Assembly may exercise a veto with respect to the corresponding decision or relevant part of the decision.

7. TMUG ADMINISTRATION

The TMUG Coordinating Organisation is the Member appointed by the TMUG Assembly to handle the administration of TMUG. A decision of a change of the TMUG Coordinating Organisation shall be taken by the TMUG Assembly at least six months ahead of a change. The first TMUG Coordinating Organisation shall be EFI.

The TMUG Coordinating Organisation shall nominate a person to coordinate the TMUG activities (“the TMUG Coordinator”).

The powers and duties of the TMUG Coordinating Organisation are further defined by the TMUG Assembly through a Terms of Reference document.

8. WITHDRAWAL FROM TMUG

A Member can withdraw from TMUG at any time, through a notice of withdrawal addressed to the TMUG Coordinator.

The annual membership fee will not be repaid to a Member that has withdrawn. There will be no repayment of the entrance fee to a withdrawing Member.

The withdrawing Member shall also after the withdrawal from TMUG be bound by any special conditions that were conditions for membership.

The withdrawing Member shall maintain all rights and obligations obtained until the time of withdrawal, but is thereafter considered a Third Party.

Any undertakings by the withdrawing Member with respect to other Members shall remain in force after withdrawal.

9. EXCLUSION FROM TMUG

A Member found in breach of the MoU by the TMUG General Assembly and which, having been given the opportunity to remedy the breach within 30 days, remains in breach of its obligations under the MoU can be excluded from TMUG and lose all rights earned as a Member.

The annual membership fee will not be repaid to a Member that has been excluded. There will be no repayment of the entrance fee to an excluded Member.

The excluded Member shall also after the exclusion from TMUG be bound by any special conditions that were conditions for membership.

Any undertakings by an excluded Member with respect to other Members shall remain in force.

10. DISSOLUTION OF TMUG

Dissolution of TMUG is done by a decision at a TMUG Assembly.

TMUG shall be considered dissolved one month after such a decision.

11. RESOLUTION OF DISPUTES

The Members shall seek to settle amicably any differences of opinion and disputes relating to the MoU, including matters related to withdrawal or exclusion of Members. Failing an amicable settlement the dispute shall be settled by the TMUG Assembly.

Nothing in this MoU shall be interpreted as a waiver of any privileges or immunities granted to the European Forest Institute by its constituent documents or international law.

[SPACE FOR PLACE, DATE and SIGNATURES]